Contract Database Metadata Elements

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Union: Lackawanna Municipal Housing Authority Blue Collar Unit, CSEA, AFSCME, AFL-CIO

Local: 1000, Erie County 815

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AGREEMENT

by and between the

LACKAWANNA MUNICIPAL HOUSING AUTHORITY

and

CSEA, Local 1000 AFSCME, AFL-CIO

Lackawanna Municipal Housing Auth. Blue Collar Unit
Erie County Local 815

July 1, 2004 - June 30, 2008

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NYS PUBLIC EMPLOYMENT RELATIONS BOARD

BC / 7170

7/17/2006
FALO OFFICE
16 EMPLOYEES
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DRUG AND ALCOHOL TESTING POLICY
POST-ACCIDENT AND REASONABLE SUSPICION
CONTROLLED SUBSTANCES AND ALCOHOL TESTING PROCEDURE(S)
AGREEMENT

Agreement made as of the 12th day of August 2005 between Lackawanna Municipal Housing Authority, a municipal corporation having its principal office at 135 Odell Street, Lackawanna, Herein called “Authority” and the Civil Service Employees Association, Inc., Local #1000, AFSCME, AFL-CIO, Lackawanna Municipal Housing Authority Unit, Local #815, herein called “CSEA”.

WHEREAS, the Authority has recognized CSEA as the sole and exclusive representative of certain employees; and

WHEREAS, the parties have negotiated concerning the terms and conditions of employment represented by CSEA; and

WHEREAS, the parties wish to reduce to writing the Agreement between them.

IT IS MUTUALLY AGREED AS FOLLOWS:

ARTICLE I: RECOGNITION

Section 1.1: The Lackawanna Municipal Housing Authority hereby confirms its recognition of CSEA as the sole and exclusive representative and bargaining agent, for the maximum period provided by law, for all its “Blue Collar” employees.

Section 1.2: CSEA shall have exclusive payroll deduction of membership dues and insurance premiums for employees covered by this Agreement, who are members of CSEA and consent to membership deductions. Payment, deductions and insurance premiums shall be remitted by the Authority to Civil Service Employees Association, Inc., 143 Washington Avenue, Albany, New York 12210.

Section 1.3: CSEA having been recognized or certified as the exclusive representative of “Blue Collar” employees within the bargaining unit represented by this Agreement shall have deductions made from the wage or salary of employees of said bargaining unit who are not members of CSEA, the amount equivalent to dues levied by the CSEA. The Employer shall make deductions and transmit the amount so deducted, along with a listing of such employees to the Civil Service Employees Association, Inc., 143 Washington Avenue, Albany, New York 12210.

Section 1.4: Access to Employees

The Union and its designated agents shall have the sole and exclusive right to access to members of the bargaining unit during working hours to administer this
Agreement and to explain Civil Service Employees Association's sponsored benefits and programs.

The Employer agrees that no other representative or organization offering benefits or programs similar to those offered or sponsored by the Civil Service Employees Association, Inc. shall be provided access to bargaining unit employees. The Employer further agrees that it will not permit any other organizations or union to hold meetings for the purpose of discussing terms and conditions of employment, or be provided meeting space, on property or premises occupied by the Authority, except those access rights provided by law.

ARTICLE II: MANAGEMENT RIGHTS

Section 2.1: Except as expressly limited by other provisions of this Agreement, all of the authority, rights and responsibilities possessed by the Board are retained by it, including but not limited to, the right to determine the mission, purposes, objectives and policies of the Board; to determine the facilities, methods, means and number of personnel required for conduct of board programs; to administer the examination, selection, recruitment, hiring, appraisal, training, retention, promotions, assignment or transfer of employees pursuant to law; to direct, deploy and utilize the work force; to establish specifications for each class of positions and to classify or reclassify and to allocate or reallocate new or existing positions in accordance with law, and to discipline or discharge employees in accordance with law and the provisions of this Agreement.

Section 2.2: The following work performance standards are related to the terms and conditions of employment as set forth under this Agreement.

It is hereby understood that failure to adhere to these standards may lead to disciplinary action. Further, it is hereby agreed that the above provisions may be the subject of a grievance, pursuant to Article VIII of this Agreement.

1. All maintenance men shall be required to do inventories;
2. All work orders must be signed by the tenant(s) for whom the work was performed;
3. Repeat visits to a job site shall be kept to a minimum;
4. Vacant apartments shall be prepared for occupancy within five (5) working days except when the conditions of the apartment do not reasonably allow the apartment to be prepared within the aforementioned time limitations;
5. When equipment is removed to/from an apartment, the model number shall be attached to the work order.
ARTICLE III: WAGES

Section 3.1: Basic Salary

**July 1, 2004 - June 30, 2005:** $800.00 on base pay for maintenance mechanic(s) and maintenance men.

**July 1, 2005 - June 30, 2006:** 3.0% on base pay for maintenance mechanic(s) and maintenance men.

**July 1, 2006 - June 30, 2007:** 3.0% on base pay for maintenance mechanic(s) and maintenance men.

**July 1, 2007 - June 30, 2008:** 3.0% on base pay for maintenance mechanic(s) and maintenance men.

The Employer shall commence paying the hourly rates negotiated on July 1, 2004 and every July 1st each year thereafter as indicated in the table below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Negotiated Wage Increase</th>
<th>Maintenance Mechanics</th>
<th>Maintenance Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee(s) Hourly Rate As Of 07/01/03</td>
<td>3.0%</td>
<td>$ 20.03</td>
<td>$ 15.84</td>
</tr>
<tr>
<td>07/01/04 - 6/30/05</td>
<td>$ 800.00</td>
<td>$ 20.42 (+$.385)</td>
<td>$ 16.23 (+$.385)</td>
</tr>
<tr>
<td>07/01/05 - 6/30/06</td>
<td>3.0%</td>
<td>$ 21.03 (+$.61)</td>
<td>$ 16.72 (+$.49)</td>
</tr>
<tr>
<td>07/01/06 - 6/30/07</td>
<td>3.0%</td>
<td>$ 21.66 (+$.63)</td>
<td>$ 17.22 (+$.50)</td>
</tr>
<tr>
<td>07/01/07 - 6/30/08</td>
<td>3.0%</td>
<td>$ 22.31 (+$.65)</td>
<td>$ 17.74 (+$.52)</td>
</tr>
</tbody>
</table>

**Section 3.2: Holiday Pay**

If an employee is required to work on a day celebrated as a holiday, he/she shall be paid one and one-half (1 1/2) times his/her regular rate of pay plus his/her regular day's pay.

**Section 3.3: Recall Pay**

When an employee leaves his/her place of work at the end of his/her normal tour of duty and is then recalled by the Executive Director of his/her designee to perform additional services for the Authority after his/her normal duty hours, he/she shall be compensated for no less than two (2) hours overtime.
Section 3.4: Overtime Pay

Employees shall be paid one and one-half (1 1/2) times their regular rate of pay for all hours worked in excess of eight (8) hours in any one (1) day or forty (40) hours in any one (1) work week. All paid leave time shall be considered as time worked for the computation of overtime.

Overtime shall be offered and shared equally by the number of hours recorded (either worked or refused*) among all employees covered by this bargaining agreement and in accordance with the employee's job classification.

There shall exist two separate overtime wheels. One overtime wheel will be for maintenance mechanics. The second overtime wheel will be for maintenance persons. The overtime wheel shall be set up by seniority, on a rotational basis, in compliance with the duties/tasks listed below, with the most senior employee in the job classification being offered overtime first, except when it is necessary to continue to work on a specific project beyond quitting time. In this case, the employee(s) actually working on said project must first be offered the opportunity to work overtime. Overtime shall be offered based on the duties/tasks listed below for maintenance mechanics and maintenance persons.

After the initial overtime wheel is canvassed, overtime then will be offered to the employee with the least number of hours recorded. In instances of ties, the most senior employee will be called first.

<table>
<thead>
<tr>
<th>Maintenance Mechanics Duties/Tasks</th>
<th>Maintenance Persons Duties/Tasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. All electrical situations including electrical power.</td>
<td>2. Clean-up after sewer plug ups.</td>
</tr>
<tr>
<td>3. All plumbing situations.</td>
<td>3. Clean-up after ceiling replacement.</td>
</tr>
<tr>
<td>4. Plugged sewers.</td>
<td>4. Delivering ranges/refrigerators - no hook-up &amp; only if maintenance mechanic unavailable.</td>
</tr>
<tr>
<td>5. All heating problems, including but not limited to, boilers, hot water tanks.</td>
<td>5. Lockouts (one employee) - only if no maintenance mechanic responds.</td>
</tr>
<tr>
<td>6. Painting apartments.</td>
<td></td>
</tr>
<tr>
<td>7. Delivering &amp; installing refrigerators and ranges.</td>
<td></td>
</tr>
<tr>
<td>8. Lockouts (one employee) - all maintenance mechanics called first, then go to maintenance persons.</td>
<td></td>
</tr>
</tbody>
</table>
In all overtime situations (except for "lockout" as defined below) two employees must be called in, one of which must be a maintenance mechanic.

A record of overtime hours recorded by each employee shall be maintained on a weekly basis and posted by 3:00 p.m. each Monday, except when Monday falls on a recognized holiday. In those instances, overtime hours shall be posted by 3:00 p.m. of the day following the holiday. Overtime equalization will be semi-annually, July 1st and January 1st of each year. Equalization of hours means within a ten (10) hour difference between the employee with the most hours and the employee with the least hours per six (6) month period.

To verify call outs, the Authority will use the cellular phone and provide records, upon request from the Union, to document who was called out.

Employees on sick leave, funeral leave or vacation leave will not be called in for overtime during these leave times.

Employees in this bargaining unit will be called for all "lockouts" between the hours of 7:00 a.m. to 7:00 p.m. in accordance with the language above except only one employee will be called in. The person called in need not be a maintenance mechanic.

If an employee returns to the bargaining unit, is a new hire, or returns from a leave of absence, he/she will be placed on the overtime roster and charged with the lowest number of hours recorded by the employees on the existing list.

Refusal of overtime means - no answer to a phone call, a not home response or an employee declining to work overtime. If the Employer receives a busy signal when attempting to contact the employees, the Employer will call again at least five (5) minutes but not more than fifteen (15) minutes after the first call. If after the second call there is still a busy signal, that call will be recorded as a refusal for overtime purposes and all hours subsequently worked will be so charged.

Section 3.5: Compensatory Time In Lieu Of Overtime Pay

Every July 1st, an employee shall have the option to opt out of overtime payment for that particular fiscal year. Any employee who is eligible for overtime may elect to choose compensatory time off in lieu of payment for overtime. The compensatory time off shall accrue at the appropriate overtime rate. The maximum compensatory time balance shall not accrue beyond eighty (80) hours. Compensatory time in lieu of overtime shall be approved by the Executive Director. Use of compensatory time off must be approved in advance by the Executive Director. (Refer to the Compensatory Time Off Policy and Compensatory Time Election Form, Appendix A).
Section 3.6: Longevity

<table>
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<tr>
<th>Longevity</th>
<th>Effective 07/01/04 and every year thereafter</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. After five (5) years of employment</td>
<td>$500.00/year</td>
</tr>
<tr>
<td>After ten (10) years of employment</td>
<td>$600.00/year</td>
</tr>
<tr>
<td>After fifteen (15) years of employment</td>
<td>$700.00/year</td>
</tr>
<tr>
<td>After twenty (20) years of employment</td>
<td>$800.00/year</td>
</tr>
<tr>
<td>After twenty-five (25) years of employment</td>
<td>$1,000.00/year</td>
</tr>
</tbody>
</table>

B. The longevity pay is not to be accumulated and is to be paid in a separate check on the pay day prior to Christmas.

ARTICLE IV: RETIREMENT BENEFITS

Section 4.1: The Authority shall provide retirement benefits to all qualified employees pursuant to the appropriate sections of the New York State Retirement and Social Security Act. The plans are: 751, 60B and 41J.

ARTICLE V: HEALTH AND DENTAL BENEFITS

Section 5.1: The Authority shall make available to each employee who so desires coverage the following health insurance program and shall pay one hundred (100%) percent of the premium cost for either single, employee and child, two person or family:

Community Blue HMO 202 and 202 Plus with three tier prescription drug copay of $5/$15/$35 and dependent/college student status 19/23. The Employer shall reimburse employees and retirees, on a monthly basis, for any drug over fifteen ($15.00) dollars upon presentation of a receipt for the prescription drug. Appendix B describes the summary of health benefits.

Employees who do not currently opt out of health insurance or who no longer contribute ten (10%) percent of the health insurance premium will receive a one-time buyout of seven hundred ($700.00) dollars payable two full pay periods after the parties ratify the tentative agreement.

Section 5.2: Waiver of Health Insurance

Employee(s) who opt out of health insurance shall receive forty (40%) percent of the Community Blue HMO 202/202 Plus premium. Refer to Appendix C for the
health insurance waiver form.

**Section 5.3: Health Insurance At Retirement**

All employees upon retirement shall have all health insurance benefits enjoyed by employees and these shall be paid in full by the Authority.

Effective January 1, 1998, any employee retiring with less than ten (10) years of LMHA service will not be eligible for LMHA paid health insurance. Any employee retiring with at least ten (10) years of service will be eligible for health insurance to be paid by LMHA at the rate of seventy-five (75%) percent plus an additional two (2%) percent for each year worked in excess of ten (10) years. Any employee with twenty (20) years or more of LMHA service will be eligible for one hundred (100%) percent paid health insurance.

For any employee who retires from the Authority with ten (10) or more years of service and subsequently dies, the Authority shall continue to pay the health insurance plan at retirement on a single policy basis, as defined in Section 5.3 of the Agreement for the surviving spouse until he or she reaches age 65, provided the surviving spouse was insured under the Authority sponsored plan at the time of the employee’s retirement.

**Section 5.4: Dental Program**

The Employer shall provide and pay one hundred (100%) percent of the cost of the Employee Benefit Fund Dental Plan (family option) for each employee covered under this contract. The Dental Plan includes, but is not limited to, basic services as well as orthodontic, prosthetic and periodontic services.

**Section 5.5: Vision Program**

The Employer shall provide and pay one hundred (100%) percent of the cost of the Employee Benefit Fund (Platinum 12) family option (composite rate) for each employee covered under this contract.

**Section 5.6: New York State Disability**

The Employer shall provide New York State Disability for all active employees.
ARTICLE VI: ATTENDANCE AND LEAVE

Section 6.1: Holiday Observance

<table>
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<th>Holiday</th>
<th>Observed</th>
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<tbody>
<tr>
<td>New Year's Day</td>
<td>Columbus Day</td>
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<tr>
<td>Washington's Birthday (observed)</td>
<td>Veteran's Day</td>
</tr>
<tr>
<td>Lincoln's Birthday</td>
<td>Thanksgiving Day</td>
</tr>
<tr>
<td>Memorial Day (observed)</td>
<td>Christmas Day</td>
</tr>
<tr>
<td>Independence Day</td>
<td>Father Baker's Day</td>
</tr>
<tr>
<td>Election Day</td>
<td>Employee's Birthday</td>
</tr>
<tr>
<td>Labor Day</td>
<td>1 Day &quot;Float&quot;</td>
</tr>
<tr>
<td>Martin Luther King, Jr.'s Birthday</td>
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</tbody>
</table>

When a holiday occurs on Sunday, the Monday following shall be observed as a holiday. When such a day occurs on Saturday, the preceding Friday shall be observed as a holiday.

If the employee's birthday falls on a legal holiday or any other legal day off, he/she shall receive the day before his/her birthday or the day after his/her birthday.

Section 6.2: Vacation

A. The following vacation schedule will prevail:

Time of employment to three (3) years: four (4) hours per pay period
From three (3) years to fifteen (15) years: six (6) hours per pay period
After fifteen (15) years: eight (8) hours per pay period

B. Vacations can be cumulative.

C. Vacations shall be scheduled by employees in conjunction with the department head. Vacations of five (5) working days or more shall be scheduled between March 1st and March 15th of each calendar year for the period of April 1st of that calendar year through March 31st of the following calendar year. Vacation periods of five (5) working days or more which are requested after March 15th of each calendar year for the immediately succeeding April 1st through March 31st twelve (12) month period shall be approved by the department head if the maximum number of employees who are able to be on vacation at one time has not been reached or the employee’s absence would not unduly affect the operation of the Maintenance Department of the Authority.

All vacation requests of five (5) or more working days shall be approved by the department head in writing within five (5) working days following the March
15th deadline or within five (5) working days of the employee submitting the written request for vacation. If two (2) or more employees request the same vacation period and all requests cannot be approved, the vacation request(s) of the most senior employee(s) shall be approved. All employees whose vacation requests are not approved shall be allowed to select other vacation periods with approval based on seniority when all such vacation requests cannot be approved. In any instance in which a department head denies a vacation request of five (5) or more working days, which was submitted in a timely fashion, the March 15th deadline shall be waived and the employee shall be allowed to select another vacation period. Vacation request(s) of less than five (5) days shall be approved by the department head at the time they are requested by the employee.

Requests for vacation shall not be unreasonably denied. If the request for vacation is denied, the department head shall provide the employee with a written statement giving such employee the reason(s) for the denial.

Employees may accrue vacation time up to a maximum of four hundred (400) hours. There will be no monetary payment for vacation hours in excess of four hundred (400) hours. Effective July 1, 2005, the one employee who has in excess of four hundred (400) vacation hours will be paid for one hundred (100) vacation hours in each year of this agreement.

D. Vacation compensation shall be granted at the beginning of the vacation period.

E. Accumulated vacation will be paid in advance only if funds are available. If funds are not available, payment will be made on regular paydays.

F. Upon death, retirement or other type of voluntary separation from service an employee, his/her beneficiary or estate, shall be paid for all vacation days which remain unused on the date one of the above events occurs, at the daily rate of pay the employee was then receiving. The employee, his/her beneficiary or estate, shall be paid for such vacation leave no later than the second pay day following the death, retirement or separation from service of the employee.

G. If a holiday(s) falls within the vacation period of an employee, the employee’s vacation accruals shall only be reduced by the number of days he would have worked during such period(s) which were not considered paid holidays in accordance with Section 6.1 of this Article VI.
Section 6.3: Sick Leave Accumulation

A. Sick leave accumulation is earned at the rate of one (1) day per month, a total of twelve (12) days per year. All employees covered by this Agreement shall earn sick leave credit starting with their first day of employment.

B. An accumulation of unused sick leave up to, but not exceeding, three hundred (300) days will be allowed for each employee who earns these credits.

C. Sick leave credits may be used in units of one full day or one-half (½) day. Sick leave credits may also be used in units of not less than thirty (30) minute increments up to a maximum of twelve (12) occurrences per fiscal year.

D. A record of the employees accrued sick leave will be kept by the department head and will be posted bi-annually.

E. The department head may require an affidavit in cases of prolonged illnesses of three (3) days duration or longer.

Section 6.4: Personal Leave Accumulation

A. Employees shall be granted leave not to exceed six (6) days per year for the purpose of religious observance and/or personal business not specifically covered elsewhere in this Agreement.

B. Except in cases of extreme emergency, employees must provide the Executive Director or his/her designee with at least one (1) day notice prior to the day in which a personal leave day is to be taken. Such notice may be given orally and must be made to the Executive Director or such person as he/she may direct to authorize on such matters. Except for situations involving extreme emergencies as above, the specific reasons for the personal leave need not be elaborated upon.

C. If the employee does not use his/her personal days prior to the end of the fiscal year, any remaining unused personal days shall be added to his/her sick leave credit bank.

D. If an employee wishes to use a personal day before or after a holiday, the employee must have written permission by the Executive Director or his/her designee prior to the holiday.

E. A personal leave request may be disapproved by the Executive Director or his/her designee when the number of personal leave requests falling on any day substantially disrupts the proper functioning of the Authority.
F. The unauthorized absence from work on the day immediately preceding or immediately following a holiday shall result in the loss of pay for the holiday and the day or days of such absence.

Section 6.5: Funeral Leave

A. Leave of absence with pay, not to exceed three (3) working days will be granted by the department head to the covered employee in the event of death occurring in such employee's immediate family. "Immediate family" shall include: parent(s), spouse, brother(s), sister(s), son(s), daughter(s), grandparent(s), grandchild(ren), parent(s)-in-law, or a person occupying the position of parent(s) of the employee or his/her spouse or their relative(s) who is an actual member of such employee's household.

B. The employee shall be allowed one (1) day (day of funeral) with pay for the following: brother(s)-in-law, sister(s)-in-law, son(s)-in-law, daughter(s)-in-law.

Section 6.6: Sick Leave Notification

A. When a sick leave absence is needed, a covered employee or responsible person shall report same to the department head no later than one-half (½) hour past the time to be at the job. The report shall state the nature of the illness or disability, attending physician's name, if any, and any other pertinent information within the stated time limit. Unless excused for reasons satisfactory to the department head, the absence shall not be deductible from sick leave but shall be considered time off without pay.

B. An employee is required to call in, in the matter described above, each day of the illness unless said illness is long term. A long term illness is considered an illness that lasts three (3) days or more. If an employee is suffering from a long-term illness, i.e., three (3) days or more, the Authority may require a notification from the employee's personal physician.

C. The Authority reserves the right to designate a doctor and require the examination of an employee to determine whether any physical or mental condition of the employee is preventing him from properly and capably performing his/her duties. The Authority shall bear the cost of such doctor or medical expense.

Section 6.7: Military Leave of Absence

Any covered employee who is required or ordered to report for military or naval duty, shall be granted military leave of absence pursuant to the Military Law.
Section 6.8: Unauthorized Absence

No covered employee may be absent from duty without permission of the department head. After three (3) days absence without permission, the department head or Board of Commissioners may declare the position vacant unless the absence is satisfactorily explained.

Section 6.9: Jury Duty

On proof of the necessity of jury duty, leave of absence shall be granted with regular pay minus jury duty salary actually received to all covered employees providing necessary documentation.

Section 6.10: Leaves of Absence Without Pay

A. A leave without payment may be granted for personal reasons at the discretion of the Authority. Any such requests must be in writing and state the nature of and reasons for the request. The length and duration of any such leave shall be established by the Authority.

B. If the leave is requested and granted for health reasons, the Lackawanna Municipal Housing Authority reserves the right to designate a doctor to examine the employee. The employee must be given full approval by the doctor to return to work. The employee shall bear the cost of such medical expense.

C. Employees shall be entitled to unpaid leaves in accordance with the provisions of the Family and Medical Leave Act of 1993.

Section 6.11: Union Representation Leave

A. A total of ten (10) days or eighty (80) hours in a fiscal year will be allowed for the following representatives of the Union: Unit President or his/her designee, First Vice-President, Grievance Representative, Secretary and Treasurer. The Unit President shall notify the Executive Director or his designee, in writing, of the number of hours of union time needed with as much advance notice as possible.
ARTICLE VII: DISCIPLINARY ACTIONS

Section 7.1: Any covered employee who is under disciplinary action shall have the right to both CSEA Labor Relations Specialist representation and legal representation at every step of such action. The CSEA Unit President shall have the right to be present at any hearing or hearings held in connection with disciplinary action against any covered employee.

Section 7.2: Disciplinary Procedure

A. Applicability

This procedure shall apply to all Lackawanna Municipal Housing Authority unit employees under the conditions outlined below:

1. **Permanent Regular Employees:** This procedure shall apply to any permanent regular employee who has successfully completed the probationary period and who is covered by the bargaining unit.

2. In lieu of Section(s) 75 and 76 of the Civil Service Law, the following disciplinary procedure shall be observed.

3. This procedure shall not affect the Lackawanna Municipal Housing Authority's right to return provisional, temporary, probationary or seasonal employees to their permanent positions, nor shall it infringe upon the employer's right to terminate a provisional or probationary employee who has no previous permanent status.

B. Employee Rights

1. An employee shall be entitled to representation by CSEA or an attorney at his/her own expense at each step of the disciplinary procedure.

2. No recording device or stenographic or other record shall be used during questioning unless the employee is advised in advance that a transcript is being made and is thereafter supplied a copy of the record at least five (5) work days prior to the date of arbitration. The cost of the transcript will be borne by the employer.

3. In all disciplinary proceedings the employee shall be presumed innocent until proven guilty and the burden of proof on all matters shall rest upon the employer.

4. An employee shall not be coerced, intimated, or suffer any reprisals either
directly or indirectly that may adversely affect his/her hours, wages or working conditions as the result of the exercise of his/her rights under this procedure.

C. Resignation

An employee may resign following the service of a Notice of Discipline. Any such resignation will be processed in accordance with Civil Service Law and Rules and the employee’s services shall be terminated. Unless the incident involves a criminal offense or threat of injury to another employee, disciplinary action shall cease upon the resignation of the employee and the record shall be expunged of reference to the proposed discipline.

D. Limitations

An employee shall not be disciplined for work related acts or omissions which occurred more than eighteen (18) months prior to the Notice of Discipline unless the act or omission would constitute a criminal offense. However, an employee’s past record may be considered by an arbitrator in determining the penalty, if any, to be imposed. All disciplinary settlements or awards will be removed after thirty-six (36) months.

E. Disciplinary Procedure Conventions

1. Discipline shall be imposed only for just cause. The specific act(s) for which discipline is being imposed and the penalty proposed shall be specified in the notice. The notice served on the employee shall contain a description of the acts or omissions alleged to be evidence of just cause, including reference to dates, times and places.

2. Where the department head seeks as a penalty the imposition of a letter of reprimand with a life of more than six (6) months, suspension without pay, a fine not to exceed $100, demotion or dismissal from service, the notice shall be served on the employee personally or by registered or certified mail, return receipt requested.

3. A department head may designate a person of his/her choice to fulfill the role of department head under this procedure. Where the text specified “department head” it will be deemed to include “or his/her designee.”

4. The Notice of Discipline served on the employee shall be accompanied by written statement that:

(a.) The employee has a right to object by filing a grievance within five (5) working days of receipt of the Notice of Discipline.
(b.) The grievance procedure provides for a hearing by an independent arbitrator as its final step.

(c.) The employee is entitled to representation by CSEA or the attorney at his/her own expense at every step of the proceeding.

F. Procedure

1. The department head and the employee involved are encouraged to settle disciplinary matters informally. Each side shall extend a good faith effort to settle the matter(s) at the earliest possible time. Department heads are encouraged to hold an informal meeting with the employee for the purpose of discussing the matter prior to the formal presentation of written charges. The specific nature of the matter will be addressed and the department head may offer a proposed disciplinary penalty. The employee must be advised before meeting that he/she is entitled to representation by the union or attorney during the initial discussion.

2. If a mutually agreeable settlement is not reached at this informal meeting, the department head will, within the three (3) working days, prepare a formal statement of charges and proposed discipline and present it to the employee. The formal statement of charges will include advice as to the employee's rights in the procedure and the right of representation.

3. Upon receipt of the Notice of Discipline, the employee may choose to accept the discipline without contest or to present a grievance at the second step of the grievance procedure within ten (10) working days from receipt of the Notice of Discipline.

4. The Lackawanna Municipal Housing Authority will hold a hearing within ten (10) working days of the receipt of the grievance and will issue a written decision within three (3) working days after the hearing.

5. The grievant may appeal this decision if he/she is not satisfied to the next step of the grievance procedure in the time limit defined.

6. The arbitrator's decision with respect to guilt or innocence and penalty shall be final and binding on the parties and he/she may approve, disapprove or take any other action warranted under the circumstances including, but not limited to, ordering reinstatement and back pay for all or part of a period of suspension. However, the arbitrator shall not be allowed to increase the penalty sought by the employer in the statement of charges. Cost of the arbitration shall be borne equally by both parties.
G. **Settlement**

A disciplinary matter may be settled at any time. The terms of the settlement shall be agreed to in writing. An employee executing a settlement shall be notified of the right to have CSEA or an attorney as representative or to decline any such representation. A settlement entered into by an employee shall be final and binding on all parties. The CSEA Unit President shall be notified of all settlements.

H. **Suspension**

Suspension without pay shall not exceed thirty (30) days except in the event that the alleged act(s) of misconduct constitute a criminal offense. Any employee suspended more than ten (10) working days in a month shall not accrue vacation and sick time during the suspension period.

A suspended employee may proceed directly to arbitration by filing a demand for arbitration within ten (10) days following service of a Notice of Discipline.

Notice of Discipline must be served within seventy-two (72) hours following suspension. Suspension may be reviewed by the arbitrator to determine whether the appointing authority had probable cause.

I. **Arbitrator Selection Procedure**

The Lackawanna Municipal Housing Authority and CSEA agree to the following procedure in the selection of a panel of arbitrators pursuant to the negotiated disciplinary procedure.

1. A list of ten (10) arbitrators will be requested from PERB by the CSEA. It will be requested that the arbitrators referred be available to hold a hearing within ten (10) working days of official notice, if possible. Selection of the arbitrator shall be by PERB’s rules.

**ARTICLE VIII: GRIEVANCE PROCEDURE**

**Section 8.1:**

A. A grievance is a claim by an employee that there has been a violation, misinterpretation or inequitable application of any provision of this agreement.

B. The aggrieved employee will first take the matter up informally or verbally with his/her immediate supervisor.
C. If the grievance is not resolved informally within five (5) working days, it is to be reduced to writing and presented to the Executive Director. The CSEA must be kept informed of the nature of the grievance and its resolution.

D. If the grievance is not resolved within five (5) working days between CSEA and the Executive Director, then within ten (10) working days thereafter, the CSEA Labor Relations Specialist shall submit the grievance to binding arbitration.

E. The arbitrator may be selected by mutual agreement of the parties. Failing mutual agreement, PERB will be asked to suggest the names of three (3) arbitrators. Each party may strike one (1) name. The remaining name will be that of the arbitrator.

F. The cost of the arbitration will be borne equally by the parties.

G. No arbitrator functioning under provisions of the grievance procedure shall have the power to amend, modify or delete any provision of this procedure.

ARTICLE IX: NO DISCRIMINATION

Section 9.1: CSEA

CSEA agrees to continue to admit all employees to membership and to represent all covered employees without regard to race, creed, color, national origin, age or sex.

Section 9.2: LMHA

The Authority agrees to continue its established policy against all forms of illegal discrimination with regard to race, creed, color, national origin, sex, age or the proper exercise by an employee of rights guaranteed by the Public Employees' Fair Employment Act.

ARTICLE X: SEVERABILITY

Section 10.1: Invalid Article, Section or Portion of Agreement

In the event that any article, section or portion of this agreement is found to be invalid by a decision of a tribunal of one (1) competent jurisdiction, the remainder of this Agreement shall continue in full force and effect.
If any article or part thereof or any section or portion of this agreement is found to be invalid, the Union and Employer agree to meet within ten (10) days of the date of invalidation for the purpose of negotiating a satisfactory replacement for such article or part thereof or any section or portion of this agreement found to be invalid.

**ARTICLE XI: LEGISLATIVE ACTION**

**Section 11.1:** It is agreed by and between the parties that any provision of this agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefore, shall not become effective until the Board of Commissioners has given approval.

**ARTICLE XII: WORK WEEK**

**Section 12.1:** All employees' work hours shall start at 8:30 a.m. to 4:30 p.m. There will also be a 7:30 a.m. to 3:30 p.m. shift if the Executive Director deems necessary based on operating needs of the department. This shift will be posted for five (5) working days for interested employee's to sign. The shift will be awarded by seniority and ability to perform the work. The work week for each employee covered under this contract shall commence on Monday and shall continue each day through Friday (five (5) consecutive work days) in accordance with the hours of work stated herein.

**Section 12.2:** The basic work week for covered employees shall be forty (40) hours per week, eight (8) hours per day. Any time worked over eight (8) hours per day or forty (40) hours per week will be termed “overtime.”

**Section 12.3:** The basic work day shall be eight (8) straight hours with a paid half (1/2) hour for lunch.

**Section 12.4:** The employees shall be allowed a break of fifteen (15) minutes in the morning and fifteen (15) minutes duration in the afternoon. Breaks will be taken between 10:00 a.m. and 11:00 a.m. and between 2:00 p.m. and 3:00 p.m. unless otherwise authorized by the Executive Director of his/her designee.

**Section 12.5:** Employees shall not be absent from the LMHA property during working hours (except during lunch hours) without the express permission of the Executive Director or the Maintenance Supervisor. In the event that an employee is so absent, the appropriate disciplinary action as called for under Article VII herein may be taken.

**Section 12.6:** Upon the determination of the Executive Director that an emergency
situation exists, any and all employees may be required to work two (2) hours overtime until such emergency situation is alleviated.

ARTICLE XIII: OUT-OF-TITLE WORK

Section 13.1: When necessary, the Authority may exercise its right to assign covered employees in a lower job classification to a higher job classification provided that after eight (8) hours in such classification the employee shall be compensated at the higher rate of pay that would normally be paid for that position for all time actually engaged in work having a higher job classification including the original eight (8) hours so engaged.

When necessary, covered employees may be required to work in a lower job classification. However, in no circumstances will a covered employee be required to accept a lower wage than that which he would normally be entitled to receive.

ARTICLE XIV: EMPLOYMENT SECURITY

Section 14.1: Seniority is that factor which will prevail in case of promotion within the CSEA Unit, job abolition, layoff, recall and reduction in forces. An employee’s seniority date shall be the date he/she begins his/her employment with the Authority.

If two or more employees are hired on the same date, the seniority placement of each employee shall be determined by drawing lots. The employee shall be present and draw his/her lot. The Employer shall call a meeting of all affected employees for the purpose of resolving the seniority standing of each employee. The seniority placement of the employee shall be considered permanent and may only be changed because of attrition of other employees or by mutual agreement of the Union and the Employer.

Section 14.2:

A. The employee involved shall have the right to replace another employee who has a lesser seniority date providing, however, that the replaced employee has the same title.

B. A unit employee cannot replace anyone within his/her title in the unit because of lack of seniority. He/she may replace someone in another title, with less seniority, if qualified, provided that the titles are in the certified unit.

C. Employees shall be recalled in reverse order of layoff.
Section 14.3: If a vacancy occurs within the non-competitive classification with the Authority, the following procedure shall prevail:

A. The job to be filled will be posted on the bulletin board for a period of five (5) working days. The posting will show:

2. Rate of pay.
3. Location.
4. A space for any interested employee to sign his/her name.

B. At this time, the Authority may fill the position. All other job related factors being equal, the most senior qualified candidate will be appointed to the vacant position. “Job-related factors” are defined to mean: discipline record, attendance record, prior experience and/or related skills training and on-the-job performance.

Section 14.4: Reduction of Bargaining Unit Positions

The Authority will not reduce the number of positions presently within the local CSEA bargaining unit unless directed by HUD for good cause. In the event of a reduction of positions, all maintenance person positions will be eliminated first in reverse seniority order before any maintenance mechanic positions will be eliminated. CSEA agrees to negotiate the impact of any annual/fiscal budget cuts in excess of twenty-five (25%) percent by reviewing the Authority’s budgets, audits, vendor statements and spending for the previous two fiscal year’s and impending fiscal year to review where feasible cost cutting measures may occur.

ARTICLE XV: MISCELLANEOUS

Section 15.1: The Authority shall provide identification cards for all employees in the Unit which employees must carry.

Section 15.2: An employee using his/her own vehicle shall receive the current IRS rate per mile.

Section 15.3: Clothing

Effective July 1, 2005, the Authority shall provide to all employees a work clothing allowance of six hundred ($600.00) dollars yearly to be paid as follows:

1. Three hundred dollars ($300.00) to be paid one hundred and twenty days (120) after the start of the fiscal year, upon presentation of attestation of purchase
and cleaning of clothing, namely work shirts, work pants and other job-related items of apparel.

2. Three hundred dollars ($300.00) to be paid two-hundred and forty days (240) after the start of the fiscal year, upon presentation of attestation of purchase and cleaning of clothing, namely work shirts, work pants and other job-related items of apparel.

Section 15.4: The Authority will allow for a credit union deduction.

Section 15.5: Tuition/Books/Fees

The Employer agrees to pay for all tuition, books and fees for any employee who takes job related courses at a training institution or other higher education facility. All requests must be submitted in writing and approved prior to the date the course commences.

ARTICLE XVI: DURATION OF AGREEMENT

This contract shall take effect on July 1, 2004 and continue in full force and effect until June 30, 2008.

IN WITNESS WHEREOF the designated representative(s) of each party set their hands this 12th day of August, 2005.

Chairperson
Lackawanna Municipal Housing Authority

Terri Hoffman, Labor Relations Specialist
Civil Service Employees Association, Inc.

Unit President, CSEA, Inc., Local 1000,
AFSCME, AFL-CIO
Lackawanna Municipal Housing Authority
Local #815

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APPENDIX A
COMPENSATORY TIME OFF POLICY

Policy Statement

Any employee who is eligible for overtime may elect to choose compensatory time off in lieu of payment for overtime. The compensatory time off shall accrue at the appropriate overtime rate. Use of compensatory time off must be approved, in advance, by the Executive Director.

Limitations

The Lackawanna Municipal Housing Authority may not require an employee to accrue compensatory time off as an alternative to paying overtime, unless the employee agrees to accrue compensatory time.

Maximum Balance

The maximum compensatory time balance shall not accrue beyond eighty (80) hours for blue collar employees. Overtime hours worked in excess of the maximum balance will be paid at the appropriate overtime rate.

Payment Upon Separation

All employees separating from employment with the Lackawanna Municipal Housing Authority will be paid for all accrued compensatory time at the appropriate overtime rate. Payment will be paid at the employee’s base hourly rate at the time of separation.

Record Keeping

All compensatory time must be recorded.
The collective bargaining agreement between the Lackawanna Municipal Housing Authority and the Civil Service Employees Association, Inc. has negotiated contractual language on compensatory time as an alternative to paying overtime.

Employees that work overtime will be compensated either by pay or compensatory time off (CTO).

Unless the employee and the Authority agree otherwise, overtime will be paid. If you do not sign and return this form, you will be paid for all overtime worked.

When hired and thereafter in the month of June, an employee may file a written statement of preference to receive CTO in lieu of overtime pay. The Authority will grant the preference indicated.

The written statement of preference to receive CTO may be withdrawn by mutual agreement of the employee and the Executive Director at any time.

Compensatory time off hours may be banked up to a maximum of eighty (80) hours. An employee will be paid for hours of overtime that exceed this limit.

Compensatory time shall be paid and/or approved by the Authority in accordance with operating needs of the department. An employee may request to schedule accumulated CTO. An employee’s request for scheduling of banked CTO shall be granted subject to the needs of the Authority and shall not be unreasonably denied.

**Employee Request for Compensatory Time**

I am requesting that I receive compensatory time off (CTO) in lieu of payment for overtime hours worked effective this date. I understand that my selection can only be changed in the month of June each year, unless the Executive Director and I mutually agree otherwise. I understand that the Authority will provide this form in June of each year if the Authority is still offering compensatory time off. I understand that if I do not re-file this form in June each year, I will receive pay for all overtime hours worked in subsequent years.

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**Distribution:**

1 copy for Personnel File
1 copy for Employee
### APPENDIX B

#### HEALTH INSURANCE SUMMARY OF BENEFITS

**COMMUNITY BLUE**

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<th>Benefits</th>
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<th>HMO 202 Plus</th>
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<td>$5/$15/$35</td>
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<td>19/23</td>
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<td>$0</td>
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<td>Specialist Visit</td>
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<tr>
<td>Laboratory Testing</td>
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### Out of Network Benefits

- **Deductible**: N/A, $250/$500
- **Coinsurance**: N/A, 80%/20%
- **Out of Pocket Maximum**: N/A, $2,000/$4,000
<table>
<thead>
<tr>
<th></th>
<th>HMO 202</th>
<th>HMO 202 PLUS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lifetime Maximum</strong></td>
<td>N/A</td>
<td>Unlimited</td>
</tr>
<tr>
<td><strong>Additional Benefits</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vision Exam</td>
<td>$10</td>
<td>$10</td>
</tr>
<tr>
<td>Eyeglass Lenses</td>
<td>Low Co-pays</td>
<td>$10</td>
</tr>
<tr>
<td>Frames and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contact Lenses</td>
<td>Low Co-pays</td>
<td>Low Co-pays</td>
</tr>
<tr>
<td>Annual Dental Exam</td>
<td>N/A</td>
<td>Second Exam Free</td>
</tr>
</tbody>
</table>

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APPENDIX C
MEMORANDUM OF AGREEMENT
WAIVER OF HEALTH INSURANCE COVERAGE FOR CASH OFFER

Purpose/Overview

To provide an optional cash incentive payment to eligible employees who wholly waive their health insurance plan under an Authority sponsored medical health insurance provider.

Policy

The Authority offers all full-time employees receiving health insurance through the Lackawanna Municipal Housing Authority a cash payment when the employee is covered by family, two-person, employee-child or single health insurance through a plan other than one of the Authority's plans and waives coverage under the Authority's health insurance plan(s). This offer also applies to married employees within the Authority who convert their duplicate insurance coverage to one Authority employee family coverage. If the employee opts for the health insurance waiver, the employee shall receive forty (40%) percent of the premium for the family health insurance coverage.

Procedure

The following conditions apply to this offer:

1. If the employee so elects to waive medical insurance, the employee shall receive forty (40%) percent of the health insurance premium. Payment will be made to the employee on the final pay date in June.

2. The employee must be covered by family, two-person, employee-child or single coverage under another medical insurance plan (the "alternate plan") and provide the Authority with the name and identification number of the alternate plan and the name and relationship of the person insured under that plan.

3. Elections for current employees may occur at any time during a calendar year. However, reinstatement in a health insurance plan shall occur only during the "open" enrollment period except as provided in (4) below. Cash payment will be made one (1) year following cancellation.

4. Waivers are irrevocable for the balance of the calendar year for which the waiver is executed. An employee cannot revoke a waiver unless the employee has a change in family status. For purposes of this waiver, a change in family status means the termination of or significant change in coverage under the alternate plan as a result of one or more of the following: a divorce, the termination of employment resulting in the loss of the alternate coverage, the change from full-time to part-time employment status of such individual or the taking of an unpaid leave of absence by such individual.

5. Any revocation or changes necessitated due to the above stated allowable reasons - in #4 above - will be disbursed on either an annual or bi-annual basis. Specifically, any revocations resulting in a cash payment adjustment to the employee will only be
disbursed and adjusted annually or bi-annually. For example, to receive the incentive, the employee must be in the incentive plan for a maximum of six months for any incentive to be disbursed. All subsequent disbursements will also adhere to this semi-annual period of continuity. This only applies to revocation of the waiver, if needed, and not the disbursement of the incentive to the employee, which will be paid in June of every year. Payments to employees will be made in June of each year.

6. If the waiver election is not formally revoked, the employee will be treated as having elected to continue his/her waiver of medical insurance coverage.

7. The cash payments under this waiver option will be taxable income and will be subject to payroll deductions.

8. No payments will be made after termination of employment.

9. All changes for current employees become effective the first of the month following an election of benefits.
APPENDIX C

HEALTH INSURANCE WAIVER

I wish to decline health insurance. I understand that I will receive a cash payment at the end of each fiscal year (June 30th) I elect to opt for the waiver/cancellation of health insurance coverage.

Pursuant to the Memorandum of Agreement, I realize I must provide the Authority with the name and identification number of my alternate plan and the name and relationship of the person insured under that plan.

<table>
<thead>
<tr>
<th>Family Plan Opt Out</th>
<th>Single Plan Opt Out</th>
</tr>
</thead>
</table>

Employee Signature/Date

Director Signature/Date
MEMORANDUM OF AGREEMENT
between
LACKAWANNA MUNICIPAL HOUSING AUTHORITY
and the
CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.,
LOCAL 1000, AFSCME, AFL-CIO

DRUG AND ALCOHOL TESTING POLICY
for
POST-ACCIDENT AND REASONABLE SUSPICION
CONTROLLED SUBSTANCES AND ALCOHOL TESTING PROCEDURE(S)

I. PURPOSE

The Lackawanna Municipal Housing Authority Drug and Alcohol Policy is designed to ensure a safe drug and alcohol free workplace for all employees and residents of the Authority and to aid the LMHA in maintaining the trust of the public.

For purposes of this Memorandum of Agreement and as stipulated under OTETA (Omnibus Transportation Employees' Testing Act), the parties agree that CSEA represented bargaining unit employees of the LMHA do not hold safety sensitive positions nor are any employee's required to possess a CDL (commercial driver's license) as a term and condition of employment in accordance with the employee's civil service job specification.

The Lackawanna Municipal Housing Authority, hereinafter referred to as the "Authority", and the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, hereinafter referred to as the "Union" are parties to a collective bargaining agreement for the term July 1, 2004 through June 30, 2008. In accordance with Section 204 of the New York State Public Employees' Fair Employment Act, the parties hereby agree to the following post-accident and reasonable suspicion controlled substances and alcohol testing procedure(s).

II. POLICY STATEMENT

Employees of the Lackawanna Municipal Housing Authority are prohibited from:

1. Reporting unfit for duty under the influence of a controlled substance or alcohol as further described herein.

2. Using, selling, distributing, dispensing, possessing, or manufacturing any alcoholic beverage or illegal drugs on a job site, or on LMHA property while on duty, or while in a LMHA owned vehicle or a leased vehicle for LMHA business.

3. This Memorandum of Agreement does not pertain to legal substances stored in personal vehicles parked on LMHA property.

4. The LMHA will enforce drug and alcohol testing for reasonable suspicion and post accident testing as further described herein. Employees covered by this policy who
test positive will be subject to Article VII - Disciplinary Actions which employees can appeal through the grievance process of the contract which includes final and binding arbitration.

5. This Memorandum of Agreement is subject to an annual review by all parties concerned as to the provisions and procedures contained herein. This Memorandum of Agreement shall be implemented January 1, 2006. This Memorandum of Agreement will sunset at midnight on June 30, 2008.

6. Should the parties disagree with any portion of this Memorandum of Agreement, it shall be subject to Article VIII - Grievance Procedure.

III. PRECONDITIONS TO REASONABLE SUSPICION & POST ACCIDENT TESTING

1. The LMHA will provide a Drug & Alcohol Awareness and Education Program relating to the drug and alcohol testing policy and procedures provided for herein at least sixty (60) days prior to implementation of this policy.

2. The term “prohibited drugs” means marijuana, cocaine, opiates, amphetamines, heroin and phencyclidine.

3. The LMHA and CSEA will jointly select the testing facility, collection site and medical review officer.

4. Educational Training: The LMHA will ensure that the Executive Director and one other designee and the CSEA unit president and/or his designee are designated to determine whether reasonable suspicion exists to require testing under this policy and shall receive at least sixty (60) minutes of training relative to alcohol abuse and sixty (60) minutes of training relative to controlled substance use. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substance(s). Such training must be completed before an employee undergoes a test. Prior to any employee being tested for reasonable suspicion or post accident testing, a majority of three must agree that just cause exists.

5. The LMHA will not discipline, discharge or terminate an employee for alcohol or controlled substances test results below the levels established by the United States Department of Transportation and/or the Federal Highway Administration. The term “positive controlled substances test” as it is used in this Memorandum of Agreement shall mean a positive test under the levels established and used by the United States Department of Transportation and/or the Federal Highway Administration. Tested levels which fall below these cutoff levels shall be considered negative results.

6. The following drug and alcohol reasonable suspicion and post accident methodology shall be utilized for any drug and/or alcohol test performed:

   a. Initial Test - The initial test shall use an immunoassay (EMIT) test as a screening test to rule out the presence of a controlled substance or its metabolite. Those samples which test positive shall be subject to confirmatory testing as described below.
b. **Confirmatory Testing** - All specimens identified as positive on the initial test shall be confirmed using a gas chromatography/mass spectrometry ("GC/MS") technique. Testing shall be conducted by a laboratory with National Institute on Drug Abuses ("NIDA") certification. All confirmed test results shall be referred to a medical review officer (MRO), described below.

c. **Cutoff Levels** - Refer to #5, Preconditions to Reasonable Suspicion and Post-Accident Testing above.

d. In accordance with the Federal Regulations, the employee shall be permitted to be present to observe the sealing and tagging of the specimen containers.

### IV. DEFINITIONS

1. **Test** - refers to an on duty, reasonable suspicion or post accident drug and/or alcohol test.

2. **Urine Test** - A urine sample submitted to a laboratory for testing.

3. **Collection Site** - A place jointly selected by the LMHA and CSEA where employees present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs and/or alcohol for reasonable suspicion testing or post-accident testing.

4. **Medical Review Officer (MRO)** - A licensed physician responsible for receiving laboratory results generated by the LMHA's testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his or her medical history and any other relevant biomedical information. The MRO will be jointly selected by the Executive Director and/or his designee and the CSEA unit president and/or his designee.

5. **Positive Test Result** - A test result that shows evidence of a drug, drug metabolite or alcohol without a valid medical explanation at or above the cutoff level assigned to that substance as reviewed by MRO.


7. **Treatment** - A therapeutic residential or outpatient program for employees with drug and/or alcohol abuse problems.

### V. REASONABLE SUSPICION TESTING

1. **Determination of Reasonable Suspicion**: An employee may be tested where there exists a "reasonable suspicion" that the employee is under the influence of drugs/alcohol as defined under the provision of this policy. The term "reasonable suspicion" shall be defined as observed aberrant unusual behavior on-duty not immediately explained by causes other than that of drug/alcohol use, and/or the physical manifestation of drug/alcohol use (e.g., drug paraphernalia, observed possession of drugs, open container containing alcoholic beverage, etc.).
2. The conduct giving rise to "reasonable suspicion" that an employee is under the influence of alcohol or using drugs must be supported by evidence or information which appears reliable and is of such weight and persuasiveness as to make the Executive Director and one other designee and the CSEA unit president and/or his designee, based upon his/her judgement and experience, reasonably suspect that a particular employee is under the influence of alcohol or using drugs. This suspicion must be supported by specific, articulate, written facts from which a rational inference can be drawn, not based upon a mere hunch or solely upon poor work performance or personality conflicts. The employee shall be provided with a copy of the specific, written facts constituting the reasonable suspicion within 24 - 48 hours of the reasonable suspicion.

3. If suspicion of drug/alcohol use is based upon observation of the suspected employee's physical appearance, the Executive Director and one other designee and the CSEA unit president and/or his designee must make and document the observations. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to, a pattern of abnormal or erratic behavior, information provided by a reliable and credible source (excluding co-worker's with personality conflicts), direct observation of drug and/or alcohol use, glassy or bloodshot eyes, slurred speech, poor coordination, poor reflexes or an employee's inability to perform his/her assigned duties in a safe and satisfactory manner due to suspected drug or alcohol use. The employee shall be provided with a copy of the documented observations constituting reasonable suspicion within 24 - 48 hours of the reasonable suspicion.

4. Right to Representation: When a decision is made to test, the employee shall be advised that he/she can consult with a Union representative so long as the process is not delayed.

5. Compensation: All time spent administering an alcohol or controlled substance test, stemming from reasonable suspicion, will be paid at the employee's regular hourly rate of pay or at their overtime rate, if applicable, and will include travel time.

6. When an employee is called in to work on an overtime basis and declines to report due to his acknowledgment that he has consumed alcohol within four (4) hours of the call-in, he shall not be required to report and will not be subject to disciplinary action.

7. Negative Reasonable Suspicion Test Results: The CSEA unit president shall be immediately provided with a complete listing of all its members who are tested for "reasonable suspicion." CSEA will thereafter review any negative reasonable suspicion testing results. If the results of a drug and/or alcohol test were negative, the employee tested will receive one-day's additional pay at his/her regular straight time rate.

8. Any such discipline assessed will be removed from the employee's file twelve (12) months after the date effective, providing no additional discipline relating to reasonable suspicion has occurred.
VI. POST ACCIDENT TESTING

1. Post accident testing shall be defined as an "accident involving the loss of life or serious property or vehicle damage."

2. All time spent administering an alcohol or controlled substance test stemming from post accident testing will be paid at the employee's regular rate of pay or at their overtime rate, if applicable, and will include travel time.

3. Any employee who is not allowed to return to work while awaiting test results arising out of post accident testing may use paid leave benefits (vacation, personal leave, sick leave, compensatory leave, at the employee's choice) during the waiting period for time lost and will be reimbursed by the LMHA for all time lost should the test results prove negative.

4. Right to Representation: Should the Executive Director and one other designee and the CSEA unit president and/or his designee determine a drug and/or alcohol test is required after an accident, the employee shall be advised that he/she can consult with a union representative, as long as the union representative can respond without causing a delay in the testing process.

5. Negative Post Accident Test Results: The CSEA unit president shall be immediately provided with a complete listing of all its members who are post accident tested. CSEA will thereafter review any negative post accident testing results. If the results of a drug and/or alcohol test were negative, the employee tested will receive one-day's additional pay at his/her regular straight time rate.

6. Any such discipline assessed will be removed from the employee's file twelve (12) months after the date effective, providing no additional discipline relating to post accident(s) has occurred.

VII. TESTING AND TEST RESULTS

1. Drug Testing Procedures

The following procedure shall be used whenever an employee is required to give a urine sample based on reasonable suspicion or post-accident testing for reasonable suspicion of drugs.

A. A urine sample will be taken of the employee. The collection shall be done in such a manner as to protect the authenticity and reliability of the sample and the privacy of the individual.

B. Immediately after the sample has been given, it will be divided into two (2) parts, labeled Sample A and Sample B, provided at least 45 ml. has been provided. The "A" sample shall contain a minimum of 30 ml. and the "B" sample shall contain 15 ml. Each sample will be separately sealed, labeled and stored in a secure and refrigerated atmosphere for transfer to the testing laboratory under a chain of custody.
C. In each instance of a drug test, a chain of custody procedure will be followed. This procedure is used to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.

D. A chain of custody form will be used from the time of collection to receipt by the testing laboratory(s). Upon receipt by the testing laboratory(s), an appropriate laboratory chain of custody form accounting for the sample within the laboratory shall be used.

E. A tamper proof sealing system designated in the manner such that the specimen bottle will be sealed against undetected opening and the bottle can be identified utilizing an identification number identical to that appearing on the urine custody and control form shall be used. Space shall be provided to initial the bottle, thereby affirming its identity.

F. Should the employee be unable to pass the required amount of urine, he/she shall remain at the collection center and follow all directives given by the collection site person until such time as 45 ml. or more of urine has been passed. Should the employee be unable to pass at lest 45 ml. of urine during his/her shift, he/she shall be referred to a designed physician who shall determine if such inability was purposefully done or medically unavoidable. If medically unavoidable, the employee shall be retested within twenty-four (24) hours or his/her next working day.

G. Any sample which has been adulterated or is shown to be a substance other than urine shall be reported as such and considered grounds for disciplinary action.

H. All testing will be done during working hours. Refer to compensation above.

2. Alcohol Testing Procedures

A. Tests for alcohol shall only be conducted by a breath alcohol technician using an evidential breath testing device. Such device shall be approved by the National Highway Traffic Safety Administration and placed on the Conforming Products List of Evidential Breath Measurement Devices.

B. In the event violations occur, the following measures will take place:

1. .02 - .039 Concentration
   - First offense: Written warning.
   - Second Offense: One (1) day suspension without pay.
   - Third Offense: One (1) week suspension without pay.
   - Fourth Offense: Article VII - Disciplinary Action pursuant to the collective bargaining agreement.

2. .04 or above Concentration:
   - First Offense: Written warning.
   - Second Offense: One (1) day suspension without pay.
   - Third Offense: One (1) week suspension without pay.
Fourth Offense: Article VII - Disciplinary Action pursuant to the collective bargaining agreement.

C. It is agreed that this system of progressive discipline is based upon a rolling eighteen (18) month period. In the event an employee tests positive for alcohol, his discipline shall be determined by the number of positive tests within the most recent eighteen (18) month period.

D. An employee may use any available accrued time off for treatment.

VIII. REPORT AND REVIEW BY MRO

1. All confirmed positive drug test results shall be referred to an MRO who shall perform the following tasks.

A. Review the chain of custody documents and test results for completeness and accuracy.

B. Give the employee an opportunity to discuss the results. Any employee who tests positive will be afforded an opportunity to justify the test results including the opportunity to present evidence of the legitimate use of prescription medication, non-prescription medication or other substance. This information is confidential and will only be released, if the employee chooses, to the MRO.

C. If there appears to be no medical reason for the positive test result which is acceptable to the MRO, the test shall be verified as positive and the same reported to the Executive Director of the LMHA.

D. Should the employee provide a medically acceptable explanation and/or documentation to the MRO, the MRO shall report the test as negative to the collection clinic, which in turn shall report same to the Executive Director of the LMHA.

IX. RETEST PROCEDURES FOLLOWING POSITIVE DRUG TEST RESULTS

If the confirmatory test and medical review is positive for the presence of an illegal drug and/or alcohol, the employee will be so notified and provided with copies of all documents pertinent to the test. If the test is confirmed as positive by the MRO, the employee will have the opportunity to request the "B" sample be retested at a laboratory of his/her choice and at his/her expense. The MRO will authorize release of this test to the laboratory. If the "B" sample is negative, the employee will be reimbursed for the cost of the retest and no action will be taken. Should the second result be positive, the employee and the union waive any right to challenge the testing protocol for either sample.

X. SPECIMEN INTEGRITY AND EMPLOYEE CONDUCT

Specimen collection will occur in a clinical setting and under strict procedures so as to avoid specimen tampering. Careful chain of custody procedures shall be followed
at all times. Any attempt to hinder collection procedures or to adulterate or substitute a urine sample will result in disqualification of an applicant and disciplinary charges against the employee and a retest.

XI. POSITIVE TEST RESULT(s) PROCEDURES

For the purposes of this policy, an employee will not be disciplined for prohibited drug and/or alcohol usage until the employee had the opportunity to discuss the results with the MRO and the test is confirmed positive by the MRO.

XII. REFUSAL TO SUBMIT TO TEST

Based on reasonable suspicion and/or post accident, employees who fail or refuse to immediately appear for testing shall be considered as testing positive and subject to disciplinary action under Article VII of the collective bargaining agreement.

XIII. CONFIDENTIALITY

All records related to reasonable suspicion and post accident testing and all results of all drug and alcohol tests will be maintained in individual files separate from the employee's official personnel file.

XIV. EMPLOYEE ASSISTANCE AND REHABILITATION

A. Employee Assistance

The LMHA shall provide Employee Assistance Program (EAP) services. The EAP Coordinator shall be mutually selected by the Executive Director and/or his designee and the CSEA unit president and/or his designee. It shall be the purpose of the EAP to:

1. Educate employees about the dangers of substance abuse;
2. Provide a resource for treatment of alcohol and drug abuse problems;
3. Assist employees with a number of other services unrelated to substance abuse designed to aid in the identification, intervention and resolution of personal problems (e.g., family, marital, financial, etc.) which negatively impact on the employee's employment with LMHA.
4. Provide initial counseling, problem identification, short-term counseling, referral if necessary, to a professional agency or person who can assist the employee to resolve his/her problem and to offer follow-up support and monitoring.

B. The services of the EAP shall be free to any employee. The costs of any professional help to which the employee or immediate family member is referred, beyond the services of the EAP and what may be covered by the employee's health insurance program, shall be the responsibility of the employee.
C. Use of EAP services or further professional help shall be confidential except when confidentiality is waived by the employee as discussed below. EAP records shall be maintained separately by the EAP Coordinator and shall not be included in personnel files. The EAP Coordinator shall provide the LMHA with statistical data only regarding the use of the program by LMHA employees and members of their immediate families. In this regard, there shall be no names or reference of any type whatsoever that would enable any LMHA official to identify any subject of the EAP program.

XV. AMNESTY REHABILITATION PROGRAM

1. Treatment/Rehabilitation Encouraged

Employees represented by CSEA who have a drug and/or abuse or addiction problem are encouraged to seek treatment and rehabilitation either through the employee’s health insurance plan or LMHA’s EAP program. Participation in this program shall be without fear of any discipline or discharge penalties provided:

A. Entry and participation in such treatment and rehabilitation must occur prior to employee selection for reasonable suspicion or post-accident testing.

B. The employee must complete a rehabilitation/counseling program.

C. The employee must sign any and all releases and/or waivers to allow the LMHA assurance of employee participation in the rehabilitation/counseling program. Information acquired by the LMHA shall be viewed only by the Executive Director and shall be filed separately from the employee’s official personnel file. In all other respects, the employee’s right to confidentiality shall be respected.

D. Confirmed Positive Test Result: A positive drug and/or alcohol test result and the MRO’s confirmation of a positive drug and/or alcohol test result following entry in and/or completion of any rehabilitation/treatment program shall be subject to Article VII - Disciplinary Actions of the collective bargaining agreement.

XVI. GRIEVANCE PROCEEDING

1. Any conflict of these provisions in the interpretation, application, unfair or inequitable use or disciplinary actions of this drug and alcohol policy is subject to the grievance and arbitration procedure as defined in Article VII - Disciplinary Actions and Article VIII - Grievance Procedure of the contract.

XVII. PART OF LMHA/CSEA BARGAINING AGREEMENT

1. This Memorandum of Agreement shall be considered part of the LMHA/CSEA collective bargaining agreement as an Appendix in the contract.